

FIGURE 12-22. ORDER ASSESSING CIVIL PENALTY
(Hazardous Materials Transportation Act)

July 22, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

ABC Airlines, Inc.
P.O. Box 5200
Jonesboro, Arkansas 72401

Re: Case No. 87WP123456; Docket No. 87-00 (HM)

ORDER ASSESSING CIVIL PENALTY

On January 22, 1988, ABC was advised through a Notice of Proposed Civil Penalty that the FAA proposed to assess a civil penalty in the amount of \$20,000.

After consideration of all of the available information, it has been determined that:

1. On or about May 15, 16, and 17, 1987, ABC, Inc. (ABC) accepted and transported aboard a passenger-carrying flight a shipment of approximately 30 pounds of special fireworks and approximately 200 pounds of propellant explosive from Los Angeles, California, to Las Vegas, Nevada.

2. Special fireworks is classified as a hazardous material under Section 172.101 of the Hazardous Materials Regulations (HMR) (49 C.F.R. 172.101).

3. The proper shipping name for this material is "Fireworks, special" which is in the Class B explosive hazard class.

4. Propellant explosive is classified as a hazardous material under Section 172.101 of the HMR.

5. The proper shipping name for this material is "Propellant explosive" which is in the Class A explosive hazard class.

6. At all times mentioned herein, Fireworks, special and Propellant explosive are forbidden aboard passenger-carrying aircraft.

By reason of the above, ABC violated the following Department of Transportation Hazardous Materials Regulations:

1. Section 175.30(a)(1) (49 C.F.R. 175.30(a)(1)), in that ABC accepted a hazardous material for transportation aboard an aircraft when the material was not authorized and was not within the quantity limitations specified for carriage aboard aircraft according to Section 172.101 (49 C.F.R. 172.101).

2. Section 175.75(a)(1) (49 C.F.R. 175.75(a)(1)), in that ABC carried on an aircraft a hazardous material contrary to the provisions of Part 172 (49 C.F.R. Part 172).

3. Section 175.20 (49 C.F.R. 175.20), in that ABC, as operator, failed to thoroughly instruct its employees in relation to the applicable Hazardous Materials Regulations.

NOW, THEREFORE, IT IS ORDERED, pursuant to Section 110(a)(1) of the Hazardous Materials Transportation Act (49 U.S.C. 1809(a)(1)), and Section 901(a)(1) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1471(a)(1)), that ABC be and hereby is assessed a civil penalty in the amount of \$20,000.

[include one of the following]

You are hereby ordered to pay, immediately, the assessed amount by mailing or delivering a check or money order in the amount of \$1,200, payable to the Federal Aviation Administration, to Trial Attorney, Office of the Chief Counsel/Office of the Assistant Chief Counsel, address.

or

We hereby acknowledge receipt of your check in the amount of \$1,200 which we accept in full settlement of this matter. You may consider the matter closed.

Assistant Chief Counsel

By: _____

FIGURE 12-23. SAMPLE ORDER OF SEIZURE

Date:

Mr. John B. Quick
Aviation Safety Inspector
Federal Aviation Administration
P.O. Box 48 - MIA
Miami, Florida

ORDER OF SEIZURE

Take notice that upon consideration of a report of investigation, I find that a DC-8 aircraft, bearing Registration No. N8989, of which the P & Q Corporation, 1865 Jefferson Street, Hollywood, Florida, is the presently registered owner, has been involved in various violations of the Federal Aviation Regulations.

By reason of such violations, aircraft N8989 is subject to a lien. Therefore, I have determined that the public interest requires the immediate seizure of the above-described aircraft.

NOW, THEREFORE, IT IS ORDERED that pursuant to Sections 901(b) and 903(b) of the Federal Aviation Act of 1958, as amended, and Section 13.17 of the Federal Aviation Regulations, you or a person designated by you, seize the DC-8 aircraft bearing registration N8989 and detain the same in your custody by placing it in the nearest available public storage facility within the judicial district in which the seizure is made, until such time as I or my representatives or a court of competent jurisdiction shall otherwise direct. You are designated as custodian of said aircraft.

Assistant Chief Counsel

FIGURE 12-24. SAMPLE NOTICE OF SEIZURE

Date:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

P & Q Corporation
1865 Jefferson Street
Hollywood, Florida

NOTICE OF SEIZURE

Take notice that pursuant to the authority contained in Sections 901(b) and 903(b) of the Federal Aviation Act of 1958, as amended, and Section 13.17 of the Federal Aviation Regulations, the Assistant Chief Counsel for the _____ Region, of the Federal Aviation Administration, has issued an order of seizure dated _____, directing the seizure of a DC-8 aircraft, Registration No. N8989, of which the P & Q Corporation is presently the registered owner.

Pursuant to the aforesaid order, Aviation Safety Inspector John B. Quick, Federal Aviation Administration, or an individual designated by him, did, at 2:45 p.m., March 9, 1979, at Broward County International Airport, Fort Lauderdale, Florida, seize and impound the above-described aircraft. Mr. Quick has been designated as custodian of said aircraft and his address is as follows:

Aviation Safety Inspector
Federal Aviation Administration
P.O. Box 48 - MIA
Miami, Florida

Aircraft N8989 was seized and detained because, under the provisions of Section 901(b) of the Federal Aviation Act of 1958, it is subject to a lien, having been involved in the following violations of the Federal Aviation Regulations for which civil penalties may be imposed pursuant to Section 901(a) of the Act:

1. On or about April 17, 1979, and again on or about April 18, 1979, said aircraft, which is an aircraft of more than 12,500 pounds maximum certificated takeoff weight, was operated from Fort Lauderdale, Florida, to San Juan, Puerto Rico, with various intermediate stops. Said flights were commercial operations during which the aircraft was engaged in the carriage in air commerce of passengers for compensation or hire. These operations were caused to be performed by the owner of the aircraft or by its agents or employees acting in accordance with the directions or consent of the owner. A total of approximately 40 passengers were carried on these flights, each of which constitutes a violation of Section 121.3(f) of the Federal Aviation Regulations.

2. Each of the foregoing flights was conducted without the presence of a second pilot on board the aircraft. Use of said aircraft in commercial operations without a second pilot constitutes a violation on each flight of Section 121.385(c) (3) of the Federal Aviation Regulations.

Pursuant to Section 901(a) of the Federal Aviation Act of 1958, the P & Q Corporation, the present registered owner, is subject to a civil penalty not to exceed \$1,000 for each said violation. The P & Q Corporation, as owner of the aircraft, is informed that, upon tender and payment of an offer in compromise of the civil penalty for which it is liable in the amount of \$4,000, to the Federal Aviation Administration, together with the costs incurred in connection with the seizure, storage, and maintenance of the aircraft, said aircraft will be released from further seizure and detention.

Assistant Chief Counsel

12/14/88

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**FIGURE 12-25. SAMPLE LETTER TO U.S. ATTORNEY
(Aircraft Seizure)**

June 10, 1988

Edward F. Noone, Esq.
United States Attorney
Southern District of Florida
Miami, Florida

Dear Mr. Noone:

This is with further reference to our telephone conversation of June 9, 1988, pertaining to the seizure of a Douglas DC-8 aircraft, Registration No. N8989, from the P & Q Corporation.

Pursuant to the requirement contained in Title 49 U.S.C. Section 1473(b)(2), we wish to report that such aircraft was seized by Inspector John B. Quick, Federal Aviation Administration, Miami, Florida, at Broward County International Airport, Fort Lauderdale, Florida, at 2:45 p.m. on June 8, 1988.

Inasmuch as the seizure of this aircraft took place within the Southern District of Florida, pursuant to the above statute, we request that you institute appropriate proceedings for the enforcement of the liens to which this aircraft is subject.

In order to facilitate your commencement of the lien proceedings, we have enclosed a draft of a libel of information. The violations of the Federal Aviation Act of 1958, as amended, and of the Federal Aviation Regulations, upon which this seizure is based, are fully set forth in the draft libel of information.

We realize that these proceedings will require considerable additional information, as well as cooperation by this office. Therefore, please do not hesitate to contact us at any time.

Sincerely yours,

Assistant Chief Counsel

Enclosure

10/30/96

(FOR INDIVIDUALS ACTING AS PILOTS, MECHANICS,
FLIGHT ENGINEERS, AND REPAIRMEN)

FIGURE 12-26. SAMPLE INFORMATION SHEET TO ACCOMPANY
NOTICE OF PROPOSED ASSESSMENT

INFORMATION REGARDING CIVIL PENALTIES
UNDER TITLE 49 U.S.C. SECTION 46301

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Under 49 U.S.C. § 46301, any person who violates pertinent provisions of 49 U.S.C. §§ 40101 et seq., or any rule, regulation, or order issued thereunder, is subject to a civil penalty for each violation. The maximum assessment for each violation is prescribed by law, as specified in the notice to which this is attached. The notice also states the amount of the proposed assessment of civil penalty for the alleged violation(s).

This proceeding is governed by applicable sections of 14 CFR Part 13 and by 49 C.F.R. Part 821. A copy of the relevant sections from 14 CFR Part 13 is enclosed. WITHIN FIFTEEN (15) DAYS AFTER YOU RECEIVE THE NOTICE TO WHICH THIS INFORMATION SHEET IS ATTACHED, you may elect to proceed in one or more of the following ways by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal-delivery to the address provided below. An explanation of each option is set forth below.

1. You may submit the amount of the civil penalty specified in the notice by certified check or money order payable to the "Federal Aviation Administration" to the Office of Accounting [insert address of appropriate accounting office]. SUBMITTING THE AMOUNT OF CIVIL PENALTY CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF ASSESSMENT IN THAT AMOUNT MAY BE ISSUED WITHOUT FURTHER NOTICE. IT ALSO CONSTITUTES YOUR AGREEMENT THAT YOU WAIVE YOUR RIGHT TO A HEARING IN THIS MATTER.

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2. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it was, the facts and circumstances do not warrant a civil penalty or the amount of the civil penalty proposed. Information provided will be considered in determining whether a civil penalty should be assessed or imposed and the amount of any such civil penalty. This information may be submitted in conjunction with a request for an informal conference under paragraph 5. Choosing this option will not affect your right to a hearing, unless you also elect paragraph 4.

3. You may submit, in writing, information and records indicating that you are financially unable to pay the proposed civil penalty, or showing that payment of the proposed penalty would prevent you from continuing in business. Choosing this option will not affect your right to a hearing unless you also elect paragraph 4.

4. You may request that a civil penalty be assessed in a specific amount other than that proposed in the notice. If you choose this option, you should also explain why a reduction is appropriate and provide any supporting documentation. The information you provide will be considered in determining whether the amount you specified should be assessed. If the FAA accepts your offer, your request constitutes your agreement that an order of assessment in that amount may be issued without further notice. Your request also constitutes your agreement that you waive your right to a hearing. If the FAA does not accept your offer, however, your right to a hearing will not be affected.

5. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in

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Washington, DC. A list of the addresses of these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy, which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, provided that

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person

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informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 5.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 5.b. To elect an in-person informal conference at a location other than those on the list, choose option 5.c.

IF YOU REQUEST AN INFORMAL CONFERENCE WITH AN FAA ATTORNEY, DO NOT ALSO REQUEST A FORMAL HEARING UNDER 14 C.F.R. § 13.16 AT THIS TIME (i.e., option 7). Your request for an informal conference will not affect your right to request a formal hearing later.

IMPORTANT: The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action. Any additional information you submit will be given our careful consideration. Since the attached letter may become a part of the publicly available records, you may wish to submit a letter which would be included in these records.

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6. You may request that the FAA impose a civil penalty without making findings of violations, and submit the reasons and any additional information in writing (with appropriate supporting documentation) to support your request. If the FAA accepts your offer, your request will constitute your agreement that a compromise order in that amount may be issued. Your request will also constitute your agreement that you waive your right to a hearing. If the FAA does not accept your offer, however, your right to a hearing will not be affected.

7. You may request that an order be issued as proposed in the notice of proposed assessment so that you may appeal directly to the National Transportation Safety Board (NTSB), as provided in 49 U.S.C. § 46301(d)(5)(A) and the NTSB's Rules of Practice (49 C.F.R. Part 821). This may be done by checking item no. 7 on the enclosed reply form or by not responding to the notice.

If you appeal to the NTSB, a complaint will be filed and an administrative law judge will be appointed to decide the case. At the hearing, held under 49 C.F.R. Part 821, the FAA will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. At the conclusion of the hearing, all issues of fact and law will be decided and a decision will be rendered whether, and in what amount, a civil penalty will be assessed.

Your appeal must be made to the National Transportation Safety Board, Office of Administrative Law Judges, Suite 5531, Fifth Floor, 490 L'Enfant Plaza East, S.W., Washington, DC 20594. You must mail a copy to the FAA attorney handling this case at the address indicated below.

8. If you have filed an FAA Aviation Safety Report with the National Aeronautics and Space Administration (NASA) concerning the incident set forth in the attached Notice of Proposed Assessment, you may be entitled to a

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waiver of any penalty. THIS PROGRAM DOES NOT APPLY TO VIOLATIONS OF FEDERAL RULES GOVERNING CIVIL AVIATION SECURITY, SUCH AS CARRIAGE OF WEAPONS ON AN AIRCRAFT. You may present evidence of entitlement to a waiver of penalty under the ASRP in connection with options 2, 3, 4, 5, 6, or 7, above, or you may present it separately under this option (i.e., option 8). YOUR CLAIM OF ENTITLEMENT TO A WAIVER OF PENALTY UNDER THIS OPTION CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF ASSESSMENT MAY BE ISSUED WITHOUT FURTHER INFORMAL PROCEEDINGS BEFORE THE FAA. In the event that you prove you are entitled to a waiver of penalty, an order of assessment will be issued finding you in violation, but waiving any civil penalty. Following issuance of the order, you will have the right to appeal the order to the National Transportation Safety Board under the provisions of 49 U.S.C. § 46301(d)(5)(B), regardless of whether the FAA accepts your claim to a waiver of penalty or not. You will be entitled to a waiver only if all of the following are found:

a. That this violation was inadvertent and not deliberate;

b. That this violation did not involve a criminal offense, or an accident, or disclose a lack of competency or qualification to be the holder of a certificate;

c. You have not paid a civil penalty pursuant to 49 U.S.C. §§ 46301, et seq., (formerly Section 901 of the Federal Aviation Act), or been found in any prior FAA enforcement action to have committed a violation of 49 U.S.C. §§ 40101, et seq., or any regulation promulgated thereunder, for a period of five (5) years before the date of the occurrences; and

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d. You prove that within 10 days after the violation, you completed and delivered or mailed a written report of the incident or occurrence to NASA under the Aviation Safety Reporting Program.

Please address all communications in this matter to the FAA attorney who signed the notice at the following address:

Office of Assistant Chief Counsel
Federal Aviation Administration
ADDRESS

Your response to the Notice of Proposed Assessment may be delivered personally to the Office of the Assistant Chief Counsel for the _____ Region at the above address during normal business hours.

Telephone: _____ (Collect calls cannot be accepted.

If you are an individual:

PRIVACY ACT NOTICE

This notice is provided in accordance with section (e) (3) of the Privacy Act, 5 U.S.C. § 552a(e) (3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101 et seq., and regulations issued thereunder and codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting a telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

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B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847 as published from time to time in the Federal Register.

D. Effect of failure to respond. If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case and you may forfeit your right to a hearing on the merits of this case.

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(FOR INDIVIDUALS ACTING AS PILOTS, MECHANICS,
FLIGHT ENGINEERS, AND REPAIRMEN)

FIGURE 12-27. SAMPLE REPLY FORM FOR
NOTICE OF PROPOSED ASSESSMENT
(49 U.S.C. § 46301(d)(5))

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Date: _____

To: Assistant Chief Counsel
ADDRESS

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Subject: Notice of Proposed Assessment

In reply to your Notice of Proposed Assessment, I elect to proceed as indicated by my check mark(s) beside the numbered paragraph(s) below:

1. ☐ I hereby submit the amount of the proposed civil penalty with the understanding that an Order of Assessment will be issued in that amount without further notice. I also understand that I am waiving my right to a hearing.

2. ☐ I hereby submit evidence and information, demonstrating that a violation of the regulations did not occur as alleged or that the penalty or the amount of the penalty proposed is not warranted by the circumstances.

3. ☐ I hereby submit information and records showing that I am financially unable to pay the proposed civil penalty, or that payment of the penalty would prevent me from continuing in business.

4. ☐ I hereby request that a civil penalty be assessed in the amount of \$_____ and I submit the reasons for reducing the proposed amount. My request constitutes my agreement that if this offer is accepted by the FAA, an order of assessment in the amount I have specified may be

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issued without further notice. My request also constitutes my agreement that I have waived my right to a hearing if my offer is accepted. If the FAA does not accept this offer, however, my right to a hearing is not affected.

5.a. ☐ I hereby request a telephonic informal conference to discuss this matter with an FAA attorney. (An attorney will call you at the telephone number you provide here:

() _____. You will be provided at least 2 weeks advance notice of the date and time of this conference.)

NOTE: If you choose to discuss this matter informally by telephone, you should provide any documents or other information you wish to have considered on your behalf before the date of the informal conference.

b. ☐ I hereby request an in-person informal conference with an FAA attorney to discuss this matter at _____ (choose an FAA office from the attached list).

c. ☐ I hereby request an in-person informal conference with an FAA attorney to discuss this matter at _____. I am requesting an in-person informal conference at this location because _____

I have also indicated an alternate location from the attached list under item 5.b. in the event the FAA is unable to grant my request under this option.

6. ☐ I hereby request that the FAA impose a civil penalty without making findings of violations, and submit my reasons. My request constitutes my agreement that if this offer is accepted, a compromise order will be issued in the amount set forth in the notice of proposed assessment. My request also constitutes my agreement that I am waiving my

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right to a hearing if the FAA accepts this offer. If the FAA does not accept this offer, I understand that my right to a hearing is not be affected.

7. ☐ I hereby request that the Order of Assessment be issued so that I may appeal directly to the National Transportation Safety Board.

8. ☐ I hereby claim entitlement to a waiver of penalty under the Aviation Safety Reporting Program and enclose evidence that a timely report was filed. As to the allegations of fact and violations --

☐ I request that an Order of Assessment with Waiver of Penalty be issued. I also hereby waive my right to a hearing.

☐ I request a hearing in this matter in accordance with paragraph 7, above.

Certificate holder:

Signature: _____

Name: _____

Address: _____

Telephone: _____

Date: _____

Case No.: _____

☐ I request that future documents in this case be sent to my representative:

Name: _____

Address: _____

Telephone: _____

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FAA LEGAL COUNSEL OFFICE LOCATIONS
FOR INFORMAL CONFERENCES

AERONAUTICAL CENTER

Federal Aviation Administration
Office of the Assistant Chief Counsel (AMC-7)
Mike Monroney Aeronautical Center
6500 South MacArthur Boulevard
Room 251
Oklahoma City, OK 73125

ALASKA REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (AAL-7)
Alaskan Region Headquarters
222 West 7th Avenue
Anchorage, AK 99513

CENTRAL REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (ACE-7)
Central Region Headquarters
601 East 12th Street
Federal Building, Room 1558A
Kansas City, MO 64106

EASTERN REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (AEA-7)
Eastern Region Headquarters
JFK International Airport
Fitzgerald Federal Building
Jamaica, NY 11430

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FAA LEGAL COUNSEL OFFICE LOCATIONS
FOR INFORMAL CONFERENCES

GREAT LAKES REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (AGL-7)
Great Lakes Region Headquarters
O'Hare Lake Office Center, Room 419
2300 East Devon Avenue
Des Plaines, IL 60018

NEW ENGLAND REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (ANE-7)
New England Region Headquarters
12 New England Executive Park, Room 311
Burlington, MA 01803

NORTHWEST MOUNTAIN REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (ANM-7)
Northwest Mountain Region Headquarters
1601 Lind Avenue, SW.
Renton, WA 98055-4056

SOUTHERN REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (ASO-7)
Southern Region Headquarters
1701 Columbia Avenue, Room 530
College Park, GA 30337

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FAA LEGAL COUNSEL OFFICE LOCATIONS
FOR INFORMAL CONFERENCES

SOUTHERN REGION SATELLITE OFFICE

Federal Aviation Administration
Office of the Chief Counsel, Orlando Branch (ASO-7-ORL)
9677 Tradeport Drive, Suite 160
Orlando, FL 32827-5397

SOUTHWEST REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (ASW-7)
Southwest Region Headquarters
2601 Meacham Boulevard
Ft. Worth, TX 76193-0007

WESTERN-PACIFIC REGION

Federal Aviation Administration
Office of the Assistant Chief Counsel (AWP-7)
Western-Pacific Region Headquarters
15000 Aviation Boulevard
Hawthorne, CA 90261

FAA HEADQUARTERS

Federal Aviation Administration
Office of the Chief Counsel
800 Independence Avenue, SW.
Washington, DC 20591

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CHAPTER 13. ENFORCEMENT-RELATED ITEMS

1300. PURPOSE. One purpose of this chapter is to provide general information on items that may not directly involve the investigation and processing of enforcement cases, but which require related consideration or action by the inspector or legal counsel.

1301. RELEASE AND PUBLICIZING OF ENFORCEMENT ACTIONS. This section applies equally to individuals, air carriers, and major engine and aircraft manufacturers, unless otherwise specifically noted.

a. Actions against air carriers and manufacturers. This section is adapted from and supersedes the March 30, 1987, memorandum from Chief Counsel Ted Ellett to Regional Directors, entitled "Guidance on Publicizing Enforcement Actions."

Because the FAA is a government agency, the public has a legitimate interest in FAA's enforcement program. The public therefore has a general right to obtain records of the FAA's enforcement actions, subject to established privileges and exceptions from required disclosure under the Freedom of Information Act and Privacy Act.

Publicizing enforcement actions also serves the government's strong interest in ensuring, through deterrence, compliance with the Federal Aviation Regulations. Often the adverse publicity and concomitant public reaction to a violation of the FAR serve more effectively to deter future violations than the loss of funds to the carrier occasioned by a civil penalty. Responsible carriers are more likely to conform their conduct to the FAR in order to avoid adverse publicity rather than to avoid civil monetary liability. And whereas an unpublicized civil penalty or certificate action operates to deter only the carrier subjected to the enforcement action, publicizing the action operates as a deterrent for all similarly situated carriers.

Because any publicity of an enforcement action alleging or finding violations of the FAR has the potential to affect significantly the public's confidence in a particular carrier's ability and commitment to comply with safety or security regulations, the FAA must take care in ensuring the accuracy and fairness of the publicity it gives such actions. Even greater caution should be exercised concerning enforcement actions that are not final determinations made by the FAA or the courts. The guidelines which follow are designed to satisfy the public's right to know, to promote the government's interest in deterrence, and to ensure the fairness and accuracy of the information the FAA provides the public.

b. Actions against individuals. The voluntary or unsolicited disclosure of any enforcement action (initial or final) against an individual is prohibited under the Privacy Act. These records may only be released in response to a written request under the Freedom of Information Act (FOIA). Disclosure may be made in response to an FOIA request or under a routine use published in the Federal Register pertaining to DOT/FAA System of Records 847, General Air Transportation Records on Individuals. Where disclosure is sought under FOIA, disclosure must be based on a judgment (which should be concurred

in by the Assistant Administrator for Public Affairs and the Chief Counsel or their designees) that the public interest in disclosure outweighs the privacy interest involved. Disclosure under the routine use provision as it is currently published requires a written request and should be treated the same as a FOIA request.

c. Initial enforcement actions.

(1) Copies of initial enforcement action documents (e.g., notices of proposed certificate action, initial civil penalty letters, notices of proposed civil penalty) should not be made available to the public before the alleged violator has had an adequate opportunity to review the document. Accordingly, no initial enforcement action document relating to any type of certificate holder should be made available to the public after a request for it until the Assistant Administrator for Public Affairs has approved its release.

The Assistant Administrator for Public Affairs is responsible for coordinating the matter with appropriate headquarters offices, including the Office of the Chief Counsel, before approving the release of the document. The Assistant Administrator for Public Affairs, in consultation with the Chief Counsel, will determine what constitutes such a reasonable period of time considering the public's need to know and the alleged violator's need to have adequate time to review the document before it is made generally available. This should generally not be longer than one to three days after its receipt. Where emergency certificate action is taken, the documents may be made available the same day the action is taken, but only after the alleged violator has been notified of the action.

(2) Except for closed cases, before any release of an initial enforcement action document, the Assistant Chief Counsel's office should inform the alleged violator the FAA plans to make such a release.

(3) Because of the greater public interest in enforcement actions against Part 121 operators and Part 135 operators, and major aircraft and aircraft engine manufacturers, initial enforcement action documents involving those operators and manufacturers should be made available to the media and the interested public within a reasonable period of time from the date of issuance regardless of whether there has been a request for such a document. In significant cases, as determined by the Assistant Administrator of Public Affairs, a short news release should be prepared and disseminated along with the initial enforcement document.

(4) Other than making the initial enforcement action document available to the public in accordance with the foregoing guidance, the FAA may voluntarily provide other information of a public nature, such as the scheduling of a public hearing, but the FAA shall not voluntarily provide any other information to the public regarding the matter until final enforcement action has been taken, except as may be required in response to a request under the Freedom of Information Act. Whether information is of such a public nature is to be determined by the appropriate Assistant Chief Counsel after consultation with the Office of Public Affairs .

d. Final enforcement actions.

(1) The guidelines concerning initial enforcement documents contained in subsection (c) above also apply to final enforcement action documents.

(2) News releases. It is agency policy to publicize by news release significant legal enforcement actions against carriers and manufacturers which are final (e.g., orders of revocation or suspension, orders assessing civil penalty, civil penalty settlements), whenever such action is likely to be of interest to the public or otherwise promotes the government's interest in deterrence.

(3) News releases should:

A. Be factual and objective.

B. Avoid comparisons of this particular alleged violator or enforcement case with other alleged violators or enforcement cases. Such comparisons often are highly subjective, and may give the appearance that the FAA harbors a bias or favors a particular certificate holder. However, the release may contain statements concerning any precedent that is set or unique circumstances, so long as they are factual and are not reasonably susceptible to varying interpretations.

C. Provide the current status of the enforcement action and state whether the alleged violator disputes the allegations or has filed an appeal, if either is known.

D. Be consistent with requirements of the Freedom of Information Act and the Privacy Act.

E. Be disseminated only by the Office of Public Affairs, only after coordination with headquarters legal and public affairs staff. The Office of Public Affairs will be responsible for ensuring that AGC-200 concurs in the release. The Office of Public Affairs shall obtain the concurrence of all other concerned agency officials, including, where appropriate, the Administrator.

(4) Before a news release is issued, the Assistant Chief Counsel's Office should inform the alleged violator that the FAA intends to issue a news release. However, the draft release shall under no circumstances be offered or shown to the alleged violator, nor the contents of the release disclosed, before dissemination.

(5) FAA offices may not disseminate any information regarding the subject of a news release until that news release has in fact been issued, except in special circumstances directed by the Office of Public Affairs in consultation with the Office of Chief Counsel.

e. The release of any document containing security information which may be subject to withholding under Part 191 of the FAR shall first be coordinated with the Office of Civil Aviation Security.

1302. IMMUNITY FOR PERSONS WHO PROVIDE INFORMATION ABOUT VIOLATIONS.

a. General. This paragraph describes the FAA's policy and procedures on providing immunity from enforcement action, in some cases, to persons who provide information about violations.

b. Background. In relation to enforcement matters, information regarding regulatory violations occasionally is offered to an FAA inspector or attorney along with a request that, in exchange for the information, the person making the offer be granted "immunity from prosecution" for his participation in the violations. The phrase "immunity from prosecution" ordinarily refers only to criminal matters. The individual usually is seeking an assurance that limited or no FAA civil enforcement action will be taken against him for admitted violations in exchange for information concerning violations by his employer or other members of the aviation community. The term "special enforcement consideration" is used in this Bulletin instead of the term "immunity from FAA civil enforcement action" and covers mitigation of sanction as well as a determination that no enforcement action is warranted.

c. Policy. Persons subject to the FAR are expected to comply with those rules, even in the face of economic or similar pressures to disregard them. Employer pressure is not an excuse for an employee's failure to comply. At the same time, there is a strong public interest in discovering violations which result from such pressures or which otherwise have been encouraged, condoned, or accepted within a company which holds an FAA certificate.

It is the FAA's general policy to encourage persons to disclose information regarding safety violations or other circumstances affecting aviation safety. Accordingly, the agency may, under certain circumstances, grant special enforcement consideration to persons who, incident to their report of another's violations, voluntarily disclose their own participation in the same or related violations. Such special enforcement consideration may range from a mitigation of sanction to a determination that no enforcement action is warranted.

It should be emphasized that --

(1) Special enforcement consideration generally should not be solicited or suggested by FAA, unless it is apparent that the informant would not provide the information or testimony in the absence of such consideration;

(2) A primary objective of the FAA is to achieve compliance with the FAR to promote safety in civil aviation and air commerce. Because a grant of special enforcement consideration is, in essence, an agreement to forbear, at least to some extent, enforcement of the FAR, the FAA should reserve use of such grants for cases where the testimony or information offered concerns the commission of safety violations or is essential to achieve effective compliance and/or deterrence. In other words, the public interest benefits obtained by granting special enforcement consideration must outweigh the public interest benefits to be derived from prosecution of the informant to the fullest extent; and

(3) An agreement completely to forego enforcement action ordinarily will not be appropriate in cases where the informant's qualifications to hold a certificate under Parts 61, 63, or 65 are at issue.

d. Factors to be considered. The extent of special enforcement consideration to be given in a particular case will depend on a weighing of public interest factors. The following factors shall be taken into account in any such determination:

(1) Whether the FAA could reasonably be expected to discover and/or prove the violations without the informant's cooperation.

(2) The seriousness of the violations disclosed by the informant and the importance of the enforcement action against his employer or other members of the aviation community.

(3) The informant's relative culpability and violation history.

(4) The informant's credibility.

(5) Whether the informant's testimony or information may reasonably be expected to contribute significantly to either an investigation of or enforcement against an employer or other action in the interest of safety.

e. Criminal violations. Violations of some FAR (e.g., falsification of records) may also involve violations of criminal laws. Immunity from criminal prosecution can be granted only upon approval of the Attorney General of the United States, pursuant to 18 USC 6004. In general, such approval is sought by FAA only where testimony or other information from an individual may be necessary to the public interest and such individual has refused or is likely to refuse to testify or provide information on the basis of his privilege against self-incrimination. The immunity sought in such cases is limited by law to "use immunity"; that is, an assurance that testimony or information so provided by an individual will not be used against him or her in a criminal prosecution.

f. Action. The following guidelines shall be followed whenever a person requests immunity or special enforcement consideration in exchange for information involving an alleged violation of the FAR:

(1) When any FAA employee receives such a request, he or she should attempt to determine the following:

A. Identity of the informant, including --

(i) The position the informant holds in the organization, if any;

(ii) The degree of involvement of the informant in the violations;

(iii) The reliability of the informant; and

(iv) The informant's violation history.

B. Identity of the individual or organization about whom or which the informant has offered information on the violations.

C. Nature of alleged violations, including type, dates, period of occurrence, seriousness, whether ongoing, and safety implications.

D. The FAA's ability to discover or prove the alleged violations without the informant's testimony or assistance.

(2) The FAA employee shall promptly advise his supervisor of the request for special enforcement consideration and the basis for such request. The supervisor shall advise the appropriate Assistant Chief Counsel.

(3) The regional or headquarters division shall promptly evaluate the request and supporting information. If the division determines that the person requesting special enforcement consideration will provide testimony or information regarding the commission of serious violations by his employer or other members of the aviation community, and, based on a weighing of the "Factors to be considered" set forth in d of this paragraph, the public interest would appear to be served by granting special enforcement consideration, the matter shall be referred to the appropriate Assistant Chief Counsel with the regional or headquarters division's evaluation and recommendation. If the division determines that special enforcement consideration is not warranted, the division shall document that determination in a memorandum to the file, with a copy to the appropriate Assistant Chief Counsel.

(4) The Assistant Chief Counsel will evaluate the request for special enforcement consideration in accordance with the "Factors to be considered" set forth in d of this paragraph.

A. If such request appears to warrant special enforcement consideration, the Assistant Chief Counsel or his designee, along with a representative of the involved division (if the division manager so desires) will meet with the informant and/or his attorney or other representative, if appropriate.

B. If such request appears not to warrant special enforcement consideration, the Assistant Chief Counsel will either seek further information or notify the Chief Counsel.

(5) The Assistant Chief Counsel shall promptly submit to the Chief Counsel a request for authorization to grant special enforcement consideration by preparing the form entitled "Request for Authorization to Grant Special Enforcement Consideration," Figure 13-1. A record of the Office of the Chief Counsel's approval or disapproval will be transmitted to the appropriate Assistant Chief Counsel.

(6) If the information presented indicates a violation of criminal law, the appropriate Assistant Chief Counsel, after consultation with the Chief Counsel, shall advise the appropriate office of the Department of Justice (DOJ). In appropriate cases, the FAA may seek favorable consideration by the DOJ prosecutor, including but not limited to, a declination to prosecute.

(7) If the DOJ, United States Attorney or other federal law enforcement agency asks the Assistant Chief Counsel to grant special enforcement consideration, the Assistant Chief Counsel shall promptly consult with the Chief Counsel.

(8) The terms and scope of agreement to grant special enforcement consideration shall be in writing and executed by the parties in a manner consistent with Figure 13-2.

(9) The Office of the Chief Counsel shall execute a memorandum of record setting forth the reasons for the grant or denial of such requests to be made part of the case file.

(10) Each request for special enforcement consideration shall be addressed on a priority basis.

1303. ENFORCEMENT ASSOCIATED WITH THE AVIATION SAFETY REPORTING PROGRAM
(ADVISORY CIRCULAR NO. 00-46C).

a. The Administrator established this program to encourage the reporting of any information which a person believes discloses an unsafe condition in the national aviation system.

b. When a violation of the FAR comes to the attention of the FAA from any source other than a report filed with the National Aeronautics and Space Administration (NASA) under the Aviation Safety Reporting Program (ASRP), the matter should be investigated, reported, and processed in accordance with Chapters 4, 9, and 10.

c. The inspector shall not query NASA, and the inspector should not ask the alleged violator if a report was filed under the ASRP, at any time during the enforcement process.

d. If the investigating field office determines that administrative enforcement action is appropriate, a warning notice or a letter of correction should be issued pursuant to Chapter 11. Administrative enforcement action is not affected by ASRP.

e. If the EIR is referred to legal counsel for legal enforcement action, counsel shall --

(1) Review the EIR and take action as provided in Chapter 12; and

(2) Advise the alleged violator that the proposed sanction may be waived pursuant to ASRP (see Figure 12-2).

f. A respondent shall receive a waiver of sanction under ASRP provided that --

(1) The violation was inadvertent and not deliberate;

(2) The violation did not involve a criminal offense, or accident, or action under Section 609 of the FA Act which discloses a lack of qualification or competency, which are wholly excluded from this policy;

(3) The person has not been found in any prior FAA enforcement action to have committed a violation of the FA Act, or of any regulation promulgated under that Act for a period of 5 years prior to the date of the occurrence; and

(4) The person proves that, within 10 days after the violation, he or she completed and delivered or mailed a written report of the incident or occurrence to NASA under ASRP.

g. When legal counsel determines that a person who has been issued a civil penalty letter, a notice of proposed civil penalty, or a notice of proposed certificate action, qualifies for waiver of sanction under subparagraph f, counsel shall:

(1) In the case of a notice of proposed certificate action or a notice of proposed civil penalty under the Civil Penalty Demonstration Program, issue an order (see Figure 12-6) which includes a statement of --

A. The factual findings;

B. The findings of violation as supported by the evidence;

C. The acceptance of the NASA report which absolves the sanction associated with the finding of violation.

D. The violator's appeal rights to the NTSB or under Part 13, as appropriate.

(2) In the case of a civil penalty letter (i.e., not an action issued under the Civil Penalty Demonstration Program), issue a letter which includes a statement of --

A. The factual allegations;

B. The allegations of violation as supported by the evidence;

C. The acceptance of the NASA report which absolves the sanction associated with the allegations of violation.

(3) The waiver is not available for violations of the Hazardous Materials Regulations.

1304. NONCOMPLIANCE WITH EXEMPTIONS. When the holder of an exemption does not comply with its terms, the requirements of the exempted regulation apply and there may be a basis for investigating the incident and the preparation of an EIR for appropriate enforcement action. Further, whenever instances of noncompliance with the provisions of an exemption are discovered, field personnel should immediately notify the division in FAA headquarters that issued the exemption, gather all pertinent information relating to the situation, and forward it to that FAA headquarters division for review and withdrawal of the exemption if appropriate. In certain situations where an exemption can be construed to be an extension or integral part of an operating certificate, amendment or withdrawal of the exemption may require action under Section 609 of the FA Act.

1305. LEGAL HANDLING OF AIRMAN MEDICAL DENIAL CASES (SECTION 602 OF THE FA ACT).

a. General. As provided in Sections 67.25 and 183.21 of the FAR, aviation medical examiners have been delegated the authority to examine applicants for airman medical certificates and to issue or initially deny such certificates after determining whether the applicants meet the standards prescribed in FAR Part 67. When an aviation medical examiner denies issuance of a medical certificate, the airman may, within 30 days after the date of denial, apply in writing to the Federal Air Surgeon for reconsideration of the denial. Final denial by the Federal Air Surgeon or, in certain cases, by other FAA medical officers, is the denial of the Administrator under Section 602 of the FA Act, from which the airman may petition the NTSB for review.

b. Petitions for review by the NTSB.

(1) Initiation of cases. Petitions under Section 602 of the FA Act initially are filed with the NTSB in Washington. Upon receipt of a petition for review, the docket section of the Board immediately serves a copy upon the Administrator through the Enforcement Proceedings Branch, Regulations and Enforcement Division (AGC-250).

(2) Legal processing. Authority to process airman medical denial cases before the NTSB is reserved to the Chief Counsel by the FAA Organization - FAA Headquarters Handbook 1100.2. Upon receipt of a petition for review and, if appropriate, after consultation with the Federal Air Surgeon's staff, AGC-250 normally files the answer or other appropriate initial pleading. Thereafter, the cases is handled by AGC-250. However, after consultation with the appropriate Assistant Chief Counsel for a region, a case may be transmitted to the region for handling before the NTSB.

(3) Transmittal to region. When it is decided between AGC-250 and the region that a case is to be handled by counsel in that region, copies of the entire case file should be delivered to counsel by overnight service as soon as practicable after the decision to transmit has been made.

(4) NTSB appeals and judicial review of NTSB decisions. Appeals to the full Board and judicial review of any NTSB decision will be handled as described in paragraphs 1202g and 1202i of this Order.

c. Special issuance of an airman medical certificate. An airman who has been denied issuance of a medical certificate has a statutory right under Section 601(c) of the FA Act to petition the Administrator for an exemption from applicable medical standards. The formal exemption process has been replaced by an informal process which allows the Federal Air Surgeon, under Section 67.19 of the Federal Aviation Regulations, to grant the special issuance of a medical certificate to an airman who does not meet the applicable medical standards.

d. Concurrent requests for special issuance. Since an airman, who has been denied the issuance of a medical certificate under the medical standards of Section 67.13, 67.15, and 67.17 of the FAR has a right to petition the NTSB for a review of the denial action and to request the special issuance of a medical certificate under FAR Section 67.19, airmen sometimes take both actions simultaneously. In such cases, the policy of the Administrator is to afford airmen every opportunity to have requests for special issuances promptly considered. However, when a petition for review is also pending before the NTSB, concurrent actions may cause unnecessary expense to the airman and the Government. In such cases, if the airman wishes the Federal Air Surgeon to consider the request for special issuance prior to disposition of the petition for review, he should request the NTSB to hold the latter in abeyance. See Section 821.24(c) of the Board's Rules of Practice, 49 C.F.R. Section 821.24(c).

1306. LEGAL HANDLING OF AIRMAN CERTIFICATE DENIAL CASES OTHER THAN AIRMAN MEDICAL CERTIFICATES (SECTION 602 OF THE FA ACT).

a. General. In addition to the denial of an airman medical certificate, the FAA may also deny other airman certificates. Under Section 602 of the FA Act, the applicant may petition the NTSB for review of the denial. The NTSB docket these petitions for review with a number designated CD-___.

b. Legal processing. Ordinarily counsel in a region will handle airman certificate denial cases before the NTSB. However, after consultation between the appropriate Assistant Chief Counsel for a region and AGC-200, a case may be handled by AGC-200.

c. NTSB appeals and judicial review of NTSB decisions. Appeals to the full Board and judicial review of any NTSB decision will be handled as described in paragraphs 1202g and 1202i of this Order.

1307. APPLICATIONS FOR AIRMAN CERTIFICATES BY PERSONS WHOSE CERTIFICATES HAVE BEEN REVOKED UNDER SECTION 609(c).

a. General. In 1988, Congress amended Sections 602 and 609 of the FA Act in the Aviation Drug Trafficking Control Act. To paraphrase the Act, the amended Section 609(c) provides that the Administrator shall issue an Order revoking the airman certificate of any person who was either (1) convicted of a state or Federal felony statute related to a controlled substance (other than simple possession), or (2) found to have knowingly engaged in an activity

punishable as a felony under state or Federal law relating to a controlled substance (other than simple possession). In each case an aircraft must have been used in order to facilitate the crime or activity, and the person involved either served as an airman or was aboard the aircraft in connection with the crime or activity.

Section 602(b)(2) provides that a person whose certificate was revoked pursuant to Section 609(c) shall not be issued an airman certificate, except that a certificate may be issued if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.

b. Application and review. Whenever it appears that issuance of a certificate to a person who was revoked under Section 609 (c) may be appropriate, the Assistant Chief Counsel shall be consulted, and he or she shall consult with AGC-200.

1308. ILLEGAL COMMERCIAL OPERATORS AND UNLAWFUL COMMON CARRIAGE.

a. In general, if a person or operator receives something of value in return for transporting persons or property by air, the transportation is for compensation or hire. An operator of an aircraft must hold an appropriate operating certificate to transport persons or property for compensation or hire, unless the operation is within one of the exceptions in FAR 91.181 or the applicability sections of the various certification rules (e.g. FAR Part 121 or 135). Note that operations conducted under one of these exceptions are still for compensation or hire for purposes of pilot certification requirements except as provided in FAR 61.118(a)(d).

b. Common carriage. This is a common law term. A person becomes a common carrier by "holding out" to the general public, or a segment of the general public, a willingness to furnish transportation for compensation, within the limits of its capability, to any person who wants it. The "holding out" may be accomplished in a variety of ways including merely having a reputation for accommodating all who request service. A private carrier may not "hold out" and must limit the number of customers it serves. In addition, its customers may not themselves be common carriers. For example, a private carrier may not fly planeloads of passengers for even a single customer if those passengers are solicited from the general public. Adaptation of a carrier's facilities to accommodate a customer's special requirements may be a factor in establishing private carriage, but it is not necessarily conclusive. Finally, while it is theoretically possible for one person to be both a common carrier and a private carrier in two distinct fields, the practical difficulties in achieving the required absolute separation are probably insurmountable.

c. Since such operations frequently involve complex factual circumstances and legal issues which make effective enforcement action difficult, policy and guidance for handling such cases should be obtained from legal counsel as early in the investigation as possible.

1309. ENFORCEMENT OF COMPENSATION OR HIRE PROHIBITION IN FAR 91.39(b),
REGARDING RESTRICTED CATEGORY AIRCRAFT.

a. Discussion. Advisory Circular No. AC 21-17 describes the carriage of cargo as a restricted category special purpose under FAR 21.25(b)(7). Public comments received on the AC as published in the Federal Register, as well as questions from FAA field offices, indicate concern with respect to determining whether or not a cargo operation is in compliance with FAR 91.39(b). The following guidance is provided. The term "restricted category aircraft" means one that has been type certificated for the special purpose of carriage of cargo.

b. Guidance. Under the prohibition against operation for compensation or hire, a person (including a corporation) engaged in carriage by air as a major enterprise for profit may not conduct such operations in restricted category aircraft. This prohibition does not preclude operation of such aircraft by a person incident to and in furtherance of his or her own business as long as the business is not carriage by air. However, it does preclude operation in circumstances in which the primary business of the "operator" (see "operate", FAR 1.1) is actually carriage by air. While ownership of the goods being carried may help determine which of the foregoing situations exists in a particular case, such ownership by the operator of an aircraft does not necessarily legitimize the operation, particularly where, for example, a temporary or limited "ownership" is undertaken to conceal either the true operator or his primary business of carriage by air. In applying these terms to an individual case, it is imperative to identify the true operator, the nature of the true operator's business, and whether the operation is incident to and in furtherance of the operator's business. The following examples are intended to illustrate possible situations, and whether or not the operations would be prohibited. (The example "meat packing company" would include a private person or corporation in circumstances similar to those indicated.)

(1) A meat packing company buys or dry leases a restricted category aircraft, obtains its own flight crew, and then uses the aircraft to carry its own meat and meat products in furtherance of its meat packing business. Under FAR 1.1, the meat packing company is the true operator of the aircraft and its business is not carriage by air. Under these circumstances, the operation would not normally be construed in violation of the regulations in FAR 91.39 against operation for compensation or hire. It should be emphasized that, as the operator of the aircraft, the meat packing company would be held responsible by the FAA for compliance with all airworthiness, operating, and maintenance rules applicable to the aircraft and the operation.

(2) A meat packing company leases a restricted category aircraft from an aircraft charter company, who also provides all services relative to operation of the aircraft - in effect a "wet" lease. The charter company then uses the aircraft to haul the meat pecker's products. Under FAR 1.1, the operator of the aircraft under such "wet" lease arrangements is normally considered to be the charter company, which is not in the meat packing business but is engaged in carriage by air as a major enterprise for profit. This operation would not be in compliance with FAR 91.39(b).

(3) An aircraft charter company buys, leases, or otherwise obtains temporary ownership of a commodity or general cargo at one or more points of origin and uses a restricted category aircraft to carry the commodity or general cargo to a destination where temporary ownership is divested. In such circumstances, the operator of the aircraft (the charter company) is normally considered to be operating aircraft for compensation or hire. In all cases in which the operator purports to be carrying its own goods, all circumstances of its acquisition and disposition of the goods will be examined to determine whether the operator's "ownership" is merely incidental to, and in furtherance of, its primary business of operating aircraft.

c. Action.

(1) When a certificated operator is found to be using a restricted category aircraft in an operation for compensation or hire, an Enforcement Investigative Report should be prepared regarding violation of FAR 91.39(b).

(2) When an uncertificated operator is found to be using a restricted category aircraft in operations for compensation or hire, an Enforcement Investigative Report should be prepared regarding violation of 91.39(b) and 121.3, 125.5 or 135.5, as appropriate.

1310. LIABILITY OF FAA EMPLOYEES.

a. On November 18, 1988, the President signed the Federal Employees Liability Reform and Tort Compensation Act of 1988 (P.L. 100-694), thereby providing government employees with immunity from personnel liability for common law torts committed within the scope of their employment. This new statute, which applies to all pending cases as well as to those cases filed in the future, provides that the exclusive remedy for common law torts shall be against the United States under the Federal Tort Claim Act, 28 U.S.C. 2671 et seq. The net effect of the new law is that where a suit is filed against an agency employee for a common law tort committed within the scope of employment, the United States will normally be substituted as the defendant, and any liability which is found will be assessed against the government itself.

b. Suits against agency employees can arise out of either negligent or intentional conduct, and they can be classified as either common law or constitutional torts. While the Federal Employees Liability Reform and Tort Compensation Act of 1988 does not apply to constitutional torts, that does not mean that agency employees are completely without protection in that area. First, if the conduct complained of was committed within the course and scope of employment, the employee can normally expect representation by the Department of Justice. Second, federal employees may be entitled to absolute or qualified immunity from liability for constitutional torts. The doctrine of absolute immunity is quite limited. Adjudicative and prosecutorial activities have been found to be situations where absolute immunity applies, but it does not apply to the prosecutor's administrative or investigative functions. Qualified immunity applies where the conduct involved the exercise of discretion and did not violate clearly established constitutional rights.

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Third, if an adverse judgment is entered against the United States, federal law bars the entry of judgment against an employee of the government for the same conduct giving rise to the judgment against the government. 28 U.S.C. 2876. Finally, as of December 30, 1987, by an amendment to the Airport and Airway Safety and Capacity Act of 1987 (P.L. 100-223), the Administrator has the authority to indemnify agency employees against any claim or judgment which arises out of acts committed within the course and scope of their employment. Thus far, there has been no occasion where the exercise of this authority has been necessary.

c. The common thread that runs through all of these protections is the requirement that the employee's conduct must have been within the course and scope of employment. The protection from liability for common law torts, the indemnification protection which applies in either a common law or a constitutional tort situation, and even the availability of legal representation by the Department of Justice, all depend upon a finding that the employee's conduct was within the course and scope of his/her employment. In the immunity situation, and in all cases where an employee requests representation by the Department of Justice, the certification that the employee qualifies must be made by the Attorney General upon the recommendation of the Administrator.

d. When an employee is sued in his/her personal capacity for money damages as a result of actions taken or not taken within the course and scope of employment, allegedly done in violation of the Constitution, the employee is ordinarily defended by the Justice Department. The Justice Department will provide representation upon request of the employee and upon recommendation of the agency, if the conduct giving rise to the lawsuit was taken within the scope of employment and that it is in the interest of the United States to provide representation.

e. Indemnification will ordinarily be available only after a finding, award, or judgment of liability has been made or entered. To be entitled to indemnification, the Administrator must find that the employee was acting within the course and scope of employment, and that indemnification is in the interest of the United States.

1311.-1399. RESERVED.

FIGURE 13-1. REQUEST FOR AUTHORIZATION TO GRANT
SPECIAL ENFORCEMENT CONSIDERATION

FEDERAL AVIATION ADMINISTRATION

TO: Office of the Chief Counsel
c/o AGC-200

- 1) Name of Informant:
- 2) Nature of Proceeding:
☐ Hearing
☐ Investigation
☐ Other (Specify)
- 3) Region:
- 4) Name of Anticipated Respondent(s):
- 5) Date Testimony and/or Other Information was Offered or Provided:
- 6) Proffer of Anticipated Testimony:

<input type="checkbox"/> None Obtained	<input type="checkbox"/> Proffer by Witness
<input type="checkbox"/> Pursuant to Plea	<input type="checkbox"/> Proffer by
Agreement with DOJ/AUSA	Representative
<input type="checkbox"/> Proffer by Counsel	Other than Counsel
- 7) Basis Other than Proffer for Summary of Anticipated Testimony:
- 8) Summary of Case or Proceeding:
- 9) Informant's Background and Role in Case or Matter and Summary of Anticipated Testimony or Information:
- 10) Informant's Relationship to the Subject(s) of the Pending or Potential Enforcement Case:
- 11) Recommended Special Enforcement Consideration for Informant:

12) Means Other Than Special Enforcement Consideration To Obtain This Testimony or Information:

13) Relative Culpability of Informant Compared to Subject(s) or Respondent(s):

14) Reasons Why Special Enforcement Consideration is in the Public Interest:

15) Basis for Belief that Informant Will Testify if Special Enforcement Consideration is Granted:

16) Pending Federal or Local Criminal Charges Against Informant:
☐ Yes ☐ No If yes, give details.

17) Federal and State Offenses by Informant that His Testimony or Information Could Disclose:

18) Should DOJ/AUSA be Notified?
☐ Yes ☐ No

19) Successful Enforcement Action Against Informant Possible on Evidence Other than His Own Testimony or Information?
☐ Yes ☐ No If yes, give details.

20) Violations (Statutes, Regulations, & Descriptions) by Subject(s) or Respondent(s):

21) Informant Previously Received Special Enforcement Consideration?
☐ Yes ☐ No If yes, give details.

22) Other Persons For Whom Special Enforcement Consideration has been Authorized Concerning the Subject Matter of the Information Provided:

23) Date Investigation Began:

24) Identity of Informant:
Birthdate:
Social Security Number:
Address:

Signature of Requestor

FIGURE 13-2. FORM AGREEMENT TO GRANT
SPECIAL ENFORCEMENT CONSIDERATION

WHEREAS, _____ possesses information concerning violations of the Federal Aviation Regulations by _____;

WHEREAS, _____ represents that he/she will provide all such information to the Federal Aviation Administration (FAA) and cooperate fully in any resulting investigation or proceeding in exchange for the FAA's assurance that limited/no FAA enforcement action [delete inapplicable] will be taken against him/her for admitted participation in the same or related violations.

NOW, THEREFORE, the FAA, by and through its undersigned counsel/representative [delete inapplicable], and _____, with the advice and approval of his counsel/representative [delete inapplicable], _____, hereby agree as follows:

1. _____ will cooperate fully with agents of the FAA, particularly in its current investigation of _____'s maintenance practices as well as other possible violations of the FAR. Said cooperation shall include:

(a) Supplying fully, truthfully, and in specific detail, all information known by _____ or which may become known by _____ which relates directly or indirectly to (i) the type and scope of improper maintenance practices, (ii) the names of management officials who caused or directed such improper maintenance practices to occur; (iii) operation of unairworthy aircraft; and (iv) any other violations of the FAR.

(b) Testifying fully and truthfully at any hearing in connection with any matter involving _____'s noncompliant maintenance practices, operation of unairworthy aircraft, or other violations of the FAR, of which _____ may have knowledge or which may be discovered as a result of information provided by _____ pursuant to this agreement. _____

2. The FAA shall not use, either directly or indirectly, testimony or information provided by _____ pursuant to this agreement in any enforcement proceeding against _____, subject to the following exceptions and limitations:

(a) In the event _____ provides false, misleading, or perjurious testimony or information, said information or testimony may result in a prosecution of _____ for false statement, perjury, or obstruction of an investigation.

(b) Should any testimony or information provided by _____ prove to be false, misleading, or incomplete, the FAA may pursue enforcement action regarding any and all violations of the FAR which may have been committed by _____.

3. If the testimony or information provided by _____ pursuant to this agreement proves to be truthful and complete, the Assistant Chief Counsel for the _____ Region will exercise his/her prosecutorial discretion [not to issue an order suspending or revoking _____'s airman and/or mechanic certificate/to issue an order with a mitigated period of suspension/to issue an order assessing a civil penalty (delete inapplicable)] for any violations involving _____ which may have been committed by _____ during the time period of _____ through _____.

4. It is understood that FAA's decision not to pursue enforcement action is not binding in any manner on the United States Department of Justice or any United States Attorney with respect to any criminal prosecution of _____ arising out of the same or related events.

Dated: _____

Assistant Chief Counsel

Informant and/or Attorney/
Representative

CHAPTER 14. ENFORCEMENT INFORMATION SYSTEM AND DISTRIBUTION REQUIREMENTS

1400. PURPOSE. This chapter provides general information concerning use of the FAA's Enforcement Information System (EIS) and instructions for the distribution of electronic records, reports, letters, notices, orders, and associated documents.

1401. ENFORCEMENT INFORMATION SYSTEM OVERVIEW.

a. The automated EIS (which will subsequently be referred to without the adjective "automated") meets the agency's long-standing need for an accurate and timely management information system to support the FAA Compliance and Enforcement Program. It is a part of a larger FAA automated data system, the Aviation Safety Analysis System (ASAS). The ASAS is a coordinated system of safety-related management information subsystems.

b. The EIS is designed to provide data input and retrieval capabilities at the field office, region, and headquarters levels. It improves the accuracy and timeliness of information required for enforcement activities by maintaining electronic records that can be readily accessed by authorized FAA personnel.

c. Data entry to the EIS is decentralized and occurs at the level of the office conducting the investigation or undertaking a subsequent action. The EIS maintains a current data base in each region on the regional computer. The information on the regional computer is entered by that region. For example, Southwest Region's data bank includes only cases from Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, plus cases transferred to Southwest Region from other regions.

d. The EIS also is maintained on a national data base. Records in the national data base are electronically transmitted and automatically updated from the regional data bases. Updates to regional data bases are also made from the national data base.

e. EIS records can be accessed at the field, regional, and headquarters levels as needed. Information in the different regional computers can be accessed from any region through the national data base using the AIDS/EIS Display and Profile. Transfers of records from other regions are processed through the national data base. The national data base also provides access to other ASAS information systems.

f. A diagram of the EIS data flow is shown in Figure 14-1.

1402. ROLES AND RESPONSIBILITIES.

a. Initial data entry. The FAA investigating office is responsible for originating an EIS record once a decision has been made to proceed with an investigation. Although in most instances the investigating office is a field office, depending on the nature of an alleged violation, an investigation may also be conducted at the regional or headquarters level.

b. EIR number. The office conducting the investigation assigns the Enforcement Investigative Report (EIR) number (also known as the case code number) at the time that it creates a new EIS record. The date on which this initial data entry occurs determines the calendar year of the report. Report numbers are assigned to all enforcement investigations according to the following ten digit format:

(1) Year. The last two digits of the calendar year (e.g. 88 for 1988).

(2) Region. The two-letter identifier of the field office's parent region (e.g., WP for Western Pacific Region).

(3) Field office. The two-digit permanent identifier assigned by the parent region to the field office. Permanent field office identifiers shall conform to the following range of numbers;

<u>Identifier</u>	<u>Type of Field Office</u>
00 - 39	Flight Standards
40 - 59	Aircraft Certification
60 - 69	Reserved
70 - 79	Civil Aviation Security
80 - 89	Airport District Office
90 - 99	Flight Surgeon

Note: The identifiers 00, 40, 60, 70, and 80, as appropriate, are be used to identify EIRs for which the investigation and reporting was conducted by a regional division manager, or under the auspices of the Executive Director for Regulations and Compliance or the Executive Director for System Development. The identifier 90 will be used for EIR's initiated by Regional Flight Surgeons, the Aeromedical Certification Branch (AAC-130), or the Federal Air Surgeon.

(4) Sequential number. The four-digit number, assigned sequentially by the field office during a calendar year, which identifies a specific investigation and EIR.

c. Data entry. Data entry to EIS is performed in accordance with the instructions contained in Chapter 9. Entry codes used for completion of items (19), (20), (21), (22), and (24) of the FAA Form 2150-5 are contained in Appendix 3.

d. Transfer case. In those instances where responsibility for investigation and processing of an alleged violation is transferred to another field office or region after a report number has been assigned, the original report number is retained on the automated EIS record and all reports relating to that case.

e. 2150-5A. When the investigating office completes entry of the minimum required fields into the regional data base, the system generates an FAA form 2150-5A. This computer-generated form can be used as the official

record (in lieu of the preprinted Form 2150-5), and must be signed by the investigating office's manager and retained in the FAA files. On a daily basis, the EIS national data base is automatically updated from each of the regional data bases.

f. Investigating office. The investigating office has primary responsibility for EIS data quality control. It must check and edit data when it is initially entered into the system. The system contains many automated edits which check data and issue a warning on the screen at the point of data entry. (See paragraphs 903b and 1403.)

g. EIS record revision. As an investigation proceeds and significant additional or revised information becomes available, the investigating office is responsible for routinely updating the EIS record as events occur. When an investigation is completed, the investigating office is responsible for entering all remaining information into the EIS. An updated record is again transmitted to the national data base.

h. 2150-5. In all enforcement actions, including emergency actions, investigating offices are responsible for entering Form 2150-5 data.

i. Regional division. The regional division is responsible for both data entry and data quality control functions for information that pertains to its review of the EIS record. The reviewing division enters the information pertaining to its review on the EIS record. This updated record is then be automatically transmitted to the national data base.

j. EIS record completion - "closed" case.

(1) If an investigation results in termination of the case without action, the investigating office is responsible for adding the information pertaining to the final disposition of the case to the EIS record. The record is then closed.

(2) If an investigation results in an administrative action, the regional division is responsible for adding the information pertaining to the final disposition of the case to the EIS record. The record is then closed.

(3) If an investigation results in legal enforcement action, then the Assistant Chief Counsel is responsible for adding the appropriate information to the EIS record. Cases requiring legal action shall be updated routinely as events occur. Each time additional data is entered into the system, the updated EIS record is transmitted to the national data base. Once final disposition occurs, the final legal action data is entered into EIS and the record is then closed. Enter the code for "closed" only when no further legal events are expected to occur, including events within the control of non-FAA entities. All other cases in which legal action has been initiated will remain in the "pending" category until closed. This includes many cases in which no further action by FAA is possible or appropriate. Specific status

of such "pending" cases can be ascertained only by inquiring of the Legal Counsel Events Table. The following are examples of when cases may be closed:

A. Certificate revocation or suspension.

(i) When the certificate is surrendered.

(ii) When the FAA has been reversed by the NTSB, and no further appeal will be made.

(iii) If the violator has not surrendered the certificate, the case may be closed after two followup letters have been sent to the address of record and any known current address. When the case is closed for this reason, legal counsel should suggest that the regional division initiate an action to revoke the certificate or to seek a civil penalty for failure to surrender, as appropriate.

If the letters have been returned undelivered, counsel should consider seeking assistance from Security in locating the violator. If this is done, the case should remain open until Security reports its findings, or in six months after the matter has been referred to Security.

If the violator has continued to exercise the privileges of the revoked or suspended certificate, injunctive or other remedial action should be initiated.

B. Assessed civil penalty (after it becomes final by court order and exhaustion of appeal rights, or the issuance of an Order Assessing Civil Penalty).

(i) When the entire amount due has been received, or agreed to in a written agreement.

(ii) When a decision is made that the amount due is uncollectable, after consideration of all available options.

C. Referral to U.S. Attorney. When followup letters have been sent at 3, 6, and 9 months, and no action has been initiated by the U.S. Attorney 12 months after referral. In this case, counsel should determine whether to request authority to pursue the case from the Department of Justice in accordance with paragraph 1205f(6) and (7).

k. Quality control. Primary responsibility for EIS data quality control belongs with the organization that is required to enter the data.

l. Updates. When changes are made to the national data base, such as revisions to edit tables which update the national EIS records, the regional EIS records will automatically be updated.

m. Record control and security. EIS records are "owned" by the originating office, that is, the office that entered the initial data. The originating office retains ownership of the record unless responsibility for it is formally transferred to another office, such as when a case is shifted to a different region.

n. Transfer. Regional ownership transfers are normally initiated by the regional division or legal counsel. Certain types of cases are routinely transferred because of the nature of the violation. For example, responsibility for hazardous materials violations are transferred to the Office of Chief Counsel in Washington, D.C. When a case is transferred, it is the responsibility of the transferring office to change the owner to correspond to the receiving office. A notation should be added to the remarks section for either regional division or legal counsel to show the office receiving the case.

o. Legal counsel. EIS record ownership does not need to be transferred when responsibility for an investigation is transferred to legal counsel in the same region. Legal counsel may add legal event information or make corrections to EIR information to any report in the regional data base that has not been administratively closed, except that legal counsel may not change field office recommended sanctions on the data base.

p. All FAA organizations have access to regional EIS information for querying, printing, or reporting purposes.

q. Security. All EIS users are required to have assigned user names. User names are associated with all EIS functions so only those functions that are authorized to a specific user are available to that user.

1403. OPERATIONS.

a. System design. The EIS is designed to be user friendly. All processes, programs, and functions are selected using menus that display and describe the available options. The EIS includes a variety of functions to simplify and speed up the data entry process, to check for data entry errors, to provide help to users while on line, and to assist in producing useful management reports.

b. Code tables. Many EIS record fields rely on tables of codes that speed up the entry of data. A coded value can be entered (for example, the standard abbreviation for an airport name) and the name or description of that data item will be generated for the record. The table will also reject the entry of incorrect codes.

c. Error checking. The EIS employs various editing methods, such as tables, range checks, omission detection, and date validation to prevent the entry of incorrect data into the data base. These functions assist in editing and validating data to ensure that the data being entered conforms to the expected values and formats. The EIS does not permit the entry of certain definite errors ("fatal" errors) and the data entry must be corrected before the user can proceed. It highlights other types of likely errors ("warning" errors), which permits the user to determine whether the data entered is correct before proceeding.

d. On-line help. Each interactive EIS program includes a HELP function that allows the user to receive instructions, error message descriptions, and general information on line. EIS users can obtain assistance with nearly all interactive EIS functions without being required to reference the users manual.

e. HELP can be accessed by entering a "?" in the field where the assistance is required. The system will respond with information about the expected user input. When a table is used for editing a field, a second "?" will prompt the system to display the contents of the table. The HELP function also permits the use of partial code values followed by a "?" to review the selection of codes containing those values.

f. Reporting. There are several standard reports that are available on EIS. These reports are designed to meet identified administrative management needs. Most of these reports permit the user to specify certain parameters, such as defining the period for which data should be reported. The EIS standard reports available on each regional computer include -

- (1) AVN Code Table Listing (all tables used in the EIS data entry process);
- (2) Regional Tracking System (RTS) Calendar report (events associated with an investigation);
- (3) Cases Referred to Legal Counsel;
- (4) Missing Documents Listing;
- (5) Suspense with No Action (open legal enforcement cases without a pending action);
- (6) Assistant Chief Counsel Log;
- (7) RTS Suspense Report (overdue cases);
- (8) RTS Daily Activity Report (case events), and
- (9) Workload Statistics Report.

g. The EIS also has the capability of producing ad-hoc reports that are tailored to the specific needs of the user. The EIS has an interactive function, the Ad Hoc Command File Generator, which permits the user to specify the conditions under which a report will be generated, the specific data elements that will be printed, and additional header lines. The system will establish a specification file for each ad-hoc report so that the same report can be regenerated.

h. In addition to the reporting capabilities of the regional computers, there are standard EIS reports available from the timeshare computer. For a current list of standard EIS reports, contact AVN-124, at FTS 747-4173.

1404. EIS DATA BASES.

a. The regional EIS data bases are located on each region's computer. The EIS national data base is maintained on the National Safety Data Branch (AVN-120) computer, which twice weekly updates the EIS data base that is also maintained on a commercial timeshare computer system. Users can directly access both their regional data base and the national data base from their local micro-computer work stations; other data bases can be accessed through the national data base interface. Users can also directly access the timeshare system from their local work stations. There is a fee for use of the timeshare.

b. Only data retrieval and limited statistical analysis of the EIS data base is possible on the regional/headquarters computers. Users must access the timeshare system to undertake field comparisons and other sophisticated data analysis. AVN-120 can assist users with special requirements for statistical analysis and comparison of data. An additional communications interface has been developed to permit field and regional access to the Airmen and Aircraft Registry files located on the Data Services Division, AAC-300 computers.

c. The Regional Tracking System (RTS) is an EIS function that maintains a computerized data base of memos, appointments, and other informal records pertaining to a violation record. RTS entries, which are referred to as "tracking events," are appended to the violation record without altering the basic violation information. The RTS can function as a tickler file to remind users of suspense dates, appointment times, etc. It permits users to establish their own sets of coded values that have specific meanings within their particular organizational area.

1405. DISTRIBUTION.

a. General. The distribution of Enforcement Investigative Reports, letters, notices, orders, and associated documents will vary with the type of enforcement action recommended and the FAA function involved. It is no longer necessary to routinely distribute paper copies of records that can be accessed electronically in EIS, except as follows:

b. Administrative enforcement actions.

(1) The investigating field office shall send the original of the warning notice or letter of correction to the violator. In cases involving companies with complex organizational structures, care should be taken to assure that the letter is addressed to the responsible official. The investigating inspector may obtain advice on such matters from the supporting office.

(2) A copy of the warning notice or letter of correction should be sent to the violator's employer when it is determined that such notification would be in the best interest of aviation safety.

(3) When the investigative office's portion of a case has been completed, all applicable information should be forwarded to the regional office by mail.

(4) A copy of the warning notice, or letter of correction, should be sent the supporting office(s).

c. Legal enforcement actions or referrals.

(1) Investigating field office.

A. The field office should send the original EIR, with the original of all exhibits, to the appropriate regional division.

B. A copy of Form 2150-5 should accompany the EIR package.

C. A copy of Sections B and D of the EIR should be sent to the supporting office(s) through the investigating field office's parent regional division. Section A (Form 2150-5) may be omitted, as it can be electronically accessed through the EIS.

D. Reports or EIRs prepared for military or foreign referrals should be distributed as in A and B above. See Chapter 5 for special procedures.

(2) Regional division. The regional division, after review and evaluation, transmits the EIR, or military or foreign referral, to the Assistant Chief Counsel for legal handling.

(3) Assistant Chief Counsel.

A. The Assistant Chief Counsel processes legal enforcement cases and complaint referrals in accordance with Chapters 10 and 12.

B. The following cases shall be forwarded by the Assistant Chief Counsel for a region to AGC-200 for legal handling:

(i) Cases expressly designated by the Administrator.

(ii) Cases involving violations of prohibited areas established over Presidential residences.

(iii) Cases involving violations by foreign persons or companies within United States air commerce, except as provided in paragraph 1002(d) (3).

(iv) Cases under the Hazardous Materials Transportation Act, within FAA jurisdiction.

(v) Other cases designated by the Office of Chief Counsel.

C. Cases appealed to the full NTSB (except appeals in emergency actions) and/or the U.S. court of appeals should be transferred to AGC-200, except those cases which AGC-200 specifically authorizes the Assistant Chief Counsel for a region to handle.

d. Legal enforcement documents. Copies of letters, notices, orders and associated documents related to the legal handling of enforcement cases by the Assistant Chief Counsel should be distributed as follows:

(1) FAA civil penalty letters, regional transfers, Notices, and Orders:

- A. Violator.
- B. Regional division(s).
- C. AVN-260.
- D. Investigating field office.

(2) FAA referrals to the U.S. attorney:

- A. Regional division(s).
- B. Investigating field office.

(3) Appeals to the NTSB and the FAA decisionmaker:

- A. Violator (FAA appeals).
- B. Regional division(s).
- C. AVN-260.
- D. Investigating field office.

(4) FAA pleadings and briefs:

- A. Violator.

(5) NTSB and court decisions and orders: AGC-200 will distribute copies of these documents to all Assistant Chief Counsel, who in turn should inform regional divisions and field offices of such final decisions.

1406. SYSTEM SUPPORT.

a. The EIS System Manager is located in AVN-120. The System Manager is responsible for day-to-day management of the EIS, such as establishing procedures, responding to special user requirements, supervising routine system maintenance, etc.

b. The ASAS Regional Program Managers (previously known as "focal points") are responsible for overseeing all ASAS-related activities in each region. They coordinate with the ASAS program office (Aviation Standards Data Division, APR-300).

c. The ASAS hotline is available to assist users who cannot find assistance for their problems through the EIS on-line HELP capabilities, by referring to the users manual, or from other local users. If the user suspects a hardware or telecommunications problem, the hotline will direct the user to the responsible organization.

d. The AVN organization is always interested in hearing suggestions and recommendations from users on how to improve the performance or usefulness of the system. User comments should be directed to:

EIS System Manager
National Safety Data Branch (AVN-120)
P.O. Box 25082
Oklahoma City, OK 73125

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